



Director's Rule 3-94

Applicant City of Seattle Department of Construction and Land Use	Page 1 of 8	Supersedes 19-93
	Publication 4/1/94	Effective 5/1/94
	Code and Section Reference SMC 25.09, Regulations for Critical Areas	
Subject Requirements for Permitting Development in Environmentally Critical Areas	Type of Rule Code Interpretation	
	Ordinance Authority SMC 3.06.040 & 3.02.050	
Index Environmental/Technical Requirements	DCLU Approved <i>A. F. Archibald</i> Date 4/19/94	

Purpose

The purpose of this rule is to clarify and interpret ordinance requirements to best accomplish the intended goals of the Regulations for Environmentally Critical Areas (ECA), Chapter 25.09 of the Seattle Municipal Code. The intent of the ECA regulations and this Director's Rule is to protect the public health, safety and welfare, promote safe development through the use of the best possible planning and engineering techniques, and prevent harm to the environment.

Environmentally Critical Areas Modifications to Submittal Requirements

All ECA modifications to submittal requirements require an application approved by the Director of DCLU.

Section 25.09.060.A. Application Submittal Requirements

1. This section outlines the surveyed site plan and technical report application submittal requirements for projects proposed in environmentally critical areas.

Rule: The Director may modify ECA application submittal requirements of Section 25.09.060.A when the applicant demonstrates to the satisfaction of the Director that complete submittals are not necessary in order for the Director to review the proposal for compliance with the substantive requirements of the ECA regulations. The applicant must document the reasons for a requested exemption from the submittal requirements.

2. Section 25.09.060.A.1.a requires that a surveyed site plan include "existing topography at 2 foot contour intervals on-site, on adjacent lands within 25 feet of the site's property lines, and on the full width of abutting public and private rights-of-way and easements." The intent of this survey requirement is to provide DCLU with on and off-site topography to review drainage flow characteristics, erosion control and other problems associated with development on or near critical areas.

Rule: In cases where the applicant has asked but been denied permission for the surveyor for the right of entry to adjoining properties, the Director may allow the surveyor to indicate on the survey the general conditions of the off-site areas. The Director shall only allow this modification to the survey requirements when the applicant demonstrates that entry has been denied. In these cases, the surveyor shall always indicate on the face of the survey what information is estimated, including their general observations. The applicant shall describe in writing what efforts were made to obtain right of entry for the off-site areas and sign a statement verifying that the request for entry has been denied.

Technical Reports

Section 25.09.060.A.2. Technical Reports

This section provides the Director of DCLU with the authority to request additional technical reports and plans including, but not limited to, soils, geological, hydrological, drainage, erosion, seismic, wetland, fish and wildlife habitat, plant ecology and botany, vegetation or revegetation, and other reports and plans documenting and identifying pertinent site information related to proposed development projects. The Director has the authority to require any technical report and/or plan necessary to review activities subject to the ECA regulations to ensure public safety and to prevent harm to the environment.

1. Rule: Permit applicants shall coordinate with the Director early in project review, or preferably prior to permit submittal through a pre-application conference with DCLU staff, to determine the scope of work and technical data requirements, and discuss the general direction and content of any required technical reports and plans.
2. Rule: Geotechnical soils reports shall always be required for landslide-prone areas (including areas exceeding 40% slope) and liquefaction-prone areas. Geotechnical soils reports for land-slide prone areas may be submitted through the staged review process described in Section 25.09.080 of the ECA regulations. Geotechnical soils reports for liquefaction-prone areas must meet the minimum requirements necessary, as determined by the Director of DCLU, to comply with applicable requirements of Seattle's Building Code and Stormwater, Grading and Drainage Control Code (SMC Chapter 22.800).

Permanent Markers Delineating ECA Buffer Areas

Section 25.09.060.C.1. Permanent markers Delineating ECA Buffer Areas

In part, this section reads that "after construction, small permanent visible markers shall be placed to delineate the buffer" from the edge of ECAs requiring a buffer.

Rule: The minimum requirements for the buffer markers shall include reinforcing steel or metal pipe driven securely into the ground. The reinforcing steel or metal pipe shall have a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface, indicating the purpose of the marker. Larger or more conspicuous markers may be required by the Director or utilized by the applicant with the Director's approval.

The number of permanent markers depends on the configuration of the ECA and associated buffers. At a minimum, at least two markers shall be required to delineate a short, straight-line buffer. More markers would be needed to delineate more complex buffer shapes and lengths. Location of the markers shall be clearly shown on the site plan, as prepared and stamped by a State of Washington licensed surveyor, prior to final approval and permit issuance by DCLU.

Grading Stabilization in Environmentally Critical Areas

Section 25.09.060.C.9. Grading Stabilization in Environmentally Critical Areas

This section reads that "all grading in environmentally critical areas shall be completed or stabilized by October 31st of each year unless demonstrated to the satisfaction of the Director based on approved technical analysis that no environmental harm or safety problems would result from grading between October 31st and April 1st."

Rule: In general, no excavation will be permitted between November 1st and March 31st. However, a site which contains only a liquefaction-prone area and/or an abandoned landfill is typically not subject to this seasonal grading limitation. When the applicant contemplates grading (including the maintenance of open temporary slopes) between November 1st and March 31, technical analysis and detailed erosion control plans shall be submitted for evaluation and approval. The analysis should demonstrate that no environmental harm or safety issues would result. The technical analysis shall meet the requirements of the Stormwater, Grading and Drainage Code (SMC Chapter 22.800) and Director's Rule 3-93, General Duties and Responsibilities of Geotechnical Engineers, and shall include a letter from the geotechnical engineer of record and plans showing mitigation techniques.

Pre-Construction Conference Requirements

Section 25.09.060.C.11. Pre-Construction Conference Requirements and Construction Activity Schedule

This section reads that a construction activity schedule and mitigation plan "shall be reviewed with the owner's representative and approved by the Director at a pre-construction meeting prior to the start of construction."

Rule: A pre-construction conference arranged jointly by the applicant and DCLU with the building inspector, site development inspector, general contractor, site development and excavation subcontractor, and any required special inspectors including, but not limited to, the geotechnical engineer shall be held at the job-site prior to beginning any work. The conference shall include a discussion of the construction activity schedule, any requirements for phased excavation, provision and fencing of buffer areas or any other specific standards or requirements for the work.

Wetland Buffer Reductions on Existing Lots

Section 25.09.160.D. *Buffer Reductions on Existing Lots*

This subsection of the wetland development standards in the *Regulations for Environmentally Critical Areas* contains the process for allowing a wetland buffer to be reduced on existing lots only. The following information outlines and clarifies this subsection.

Rule: Whenever possible the front or rear yard or setback administrative reduction provisions of Section 25.09.280.A shall be given first priority in allowing reasonable development of the site. If this does not provide sufficient relief to allow development of the site without reducing the wetland buffer, the next step would be consideration of a front or rear yard or setback variance (Section 25.09.280.B) to further reduce the yard or setback to allow reasonable development of the site, generally without reducing the wetland buffer. However, through this variance process the Director may allow reduction of the wetland buffer, in conjunction with further reduction of a front or rear yard or setback, to allow reasonable development of the site.

When an existing site contains a wetland and wetland buffer which covers the majority of the site, and it becomes clearly evident that the front and rear yard or setback reduction procedures of Section 25.09.280 would not provide sufficient relief to allow reasonable development of the site, the Director may allow the applicant to make application for an Environmentally Critical Areas Exception (Section 25.09.300) to reduce the wetland buffer to allow reasonable development of the site.

Short Subdivision and Subdivision Development Standards

Section 25.09.240.D.

This section contains a development standard which states that "the identified environmentally critical areas and their required buffer areas within a proposed subdivision or short subdivision shall receive no development credit for use in calculating the number of lots permitted."

Rule: Reflecting the intent of the *Environmentally Critical Areas Policies*, this section shall apply only to short subdivisions and subdivisions of single family zoned sites.

Environmentally Critical Areas Administrative Conditional Use

Section 25.09.260. Administrative Conditional Use Permit to Recover Development Credit and Permit Clustered Development On-site in Single Family Zones

Rule: When determining full development credit on-site for consideration of the maximum number of clustered units or lots which may be granted in a single family zone through the Environmentally Critical Areas Administrative Conditional Use, the entire site, including all environmentally critical areas and their buffers, may be used in this calculation. This allowance when granted through an administrative conditional use overrides the short subdivision and subdivision provision for single family zones contained in Section 25.09.240.D.

Environmentally Critical Areas Yard and Setback Reduction and Variance for Existing Lots Containing a Wetland and Wetland Buffer

Section 25.09.280.B. Environmentally Critical Areas Yard and Setback Variance

Rule: Application for a variance under these provisions when the site contains a wetland and wetland buffer shall be modified by the provisions under Section 25.09.160.D. which specify that the wetland buffer may be reduced in combination with a front or rear yard or setback reduction to allow reasonable development of the site.

Vegetation and Tree Removal Permits

Section 25.09.320. Vegetation and Tree Removal Permit in Environmentally Critical Areas

This section includes provisions regulating when vegetation and/or tree removal is permitted within specified ECAs. The regulations read that "removal, clearing or any action detrimental to trees or vegetation within wetlands, wetland buffers and riparian corridor buffers is prohibited unless the Director has given prior approval to a restoration plan pursuant to buffer restoration, reduction or exception provisions contained in this Chapter." The regulations further state that "removal, clearing or any action detrimental to trees including, but not limited to, tree-

topping, or vegetation removal within landslide-prone, steep slope, and fish and wildlife habitat areas shall require a permit from the Director." A vegetation or tree removal permit shall always be required even in cases where an application for a building permit or master use permit has not been submitted, and shall only apply to that portion of the site which is designated as environmentally critical.

1. Rule: Tree and vegetation removal requirements shall be implemented through the following three-tier permit system, based upon the number and caliper size of trees to be altered or removed and/or the total area (square footage) of vegetation to be cleared within the ECA on a site. The three-tier permit system ranges from minor tree alteration or removal proposals (Type C permit) to major vegetation clearance proposals (Type A permit).

Type A Permit: Two thousand (2,000) square feet or more of vegetation removal (any combination of trees, including their canopy area, and other vegetation).

Type B Permit: Greater than a 16 inch caliper tree (measured 3 feet above the ground), or equivalent combination of trees over 1.5 inch caliper (measured 3 feet above the ground) which total a cross-section area greater than 200 square inches; and/or

Greater than 750 square feet and less than 2,000 square feet of vegetation removal (any combination of trees, including their canopy area, and other vegetation).

Type C Permit: Greater than a 6 inch caliper tree up to a 16 inch caliper tree (measured 3 feet above the ground), or equivalent combination of trees over 1.5 inch caliper (measured 3 feet above the ground) which total a cross-section area greater than 28 square inches up to 200 square inches.

2. Rule: Tree or vegetation removal shown as part of an issued building or grading permit shall not require a separate vegetation removal permit.
3. Rule: Tree or vegetation removal shall not be permitted if it is determined to be a precursor of a later development proposal, unless a plan is approved by the Director for public safety reasons and/or investigative geotechnical field work.

Clarification of Terms

- * Critical areas of "forty percent (40%) average slope or greater as defined by the Director" refers to all slopes located on a site which are actually measured at 40% or greater and have a vertical height greater than or equal to ten (10) feet.
- * Critical areas defined as potential slide areas include "any area with a combination of slopes greater than 15 percent." The following measurement technique shall be used to determine the extent of slopes greater than 15 percent: the portion of a slope shall be considered greater than 15% when the horizontal distance between two (2) foot contours shown on a topographic plan is thirteen and one-half (13.5) feet or less.

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April 27, 1994